

REMARKS

In light of the above amendments and remarks to follow, reconsideration and allowance of this application are respectfully requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

Claims 2, 6, 10, and 14 and amended claims 1, 5, 9, and 13 are in this application. Claims 3, 4, 7, 8, 11, 12, and 15 have been canceled. Cancellation of claims 3, 4, 7, 8, 11, 12, and 15 should not be construed as an agreement by Applicant with the Examiner's rejections. Applicant reserves the right to continue prosecution of any or all of these rejected claims in one or more continuation applications.

Claims 1, 3, 5, 7, 9, 11, 13, and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over White (5,734,794) in view of Ozzimo (6,003,000), and further in view of Gibson (6,490,359). As previously mentioned, claims 3, 7, 11, and 15 have been canceled.

Independent claim 1, as amended herein, recites in part as follows:

“selected picture switching means that switches and selects one among a plurality of said registered pictures as a selected picture on the basis of a level of a first frequency band of the analyzed sound signal from said sound signal analyzing means; ...

composing method changing means that changes a composing method of said frequency analyzed picture and said selected picture on the basis of a level of a second frequency band of the analyzed sound signal from said sound signal analyzing means.”

It is respectfully submitted that the applied combination of White, Ozzimo, and Gibson does not disclose the above-recited features. That is, such combination of references does not appear to disclose switching a picture and changing a composing method using the results of a frequency analysis on the same sound signal but different frequency bands. Accordingly, amended independent claim 1 is believed to be distinguishable from the applied combination of White, Ozzimo, and Gibson.

For reasons similar to those described above with regard to claim 1, amended independent claims 5, 9, and 13 are believed to be distinguishable from the applied combination of White, Ozzimo, and Gibson.

Claims 2, 4, 6, 8, 10, 12, and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over White in view of Ozzimo in view of Gibson, and further in view of “well known prior art.” As previously mentioned, claims 4, 8, and 12 have been canceled.

Claims 2, 6, 10, and 14 depend from one of claims 1, 5, 9, and 13, and, due to such dependency, are believed to be distinguishable from the applied combination of White, Ozzimo, and Gibson for at least the reasons previously described. The Examiner does not appear to have relied upon “well known prior art” to overcome the above-described deficiencies of the White, Ozzimo, and Gibson combination. Accordingly, claims 2, 6, 10, and 14 are believed to be distinguishable from the applied combination of White, Ozzimo, Gibson, and “well known prior art” for at least the reasons previously described.

Furthermore, the Examiner does not cite a reference that discloses the features of claim 2, 4, 6, and 10. In this regard, reference is made to In re Pardo and Landau, (214 USPQ 673) in which the Court states at page 677:

“Assertions of technical facts in areas of esoteric technology must always be supported by citation to some reference work recognized

as standard in the pertinent art and the applicant given, in the Patent Office, the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference.”

In view of In re Pardo and Landau, it is believed to be improper for the Examiner to fail to cite a reference, which specifically describes the features of claims 2, 6, 10, and 14.

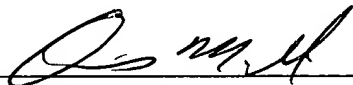
In the event, that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:


Dennis M. Smid
Reg. No. 34,930
(212) 588-0800